

BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion

The ethics law prohibits a public employee from participating in a matter if the employee knows or reasonably should know that any party to that matter is a business that the employee has a contract with, if that contract could reasonably result in a conflict between the employees' private interests and official duties. A member of the County's Cable Communications Advisory Committee asks if a contract for leased access time with a local cable provider, Comcast Corporation, would be an impermissible conflict of interest with his official duties. We conclude that there is no conflict because the employee paid market value for the airtime based upon a rate sheet available to all customers.

Facts

The employee is a member of the County's Cable Communications Advisory Committee (the Committee). The Committee provides advice and recommendations to the County Council and County Executive on the administration of the County's cable law (chapter 8A of the County Code) and any franchise agreement or application.¹

The employee submitted a contract to Comcast for "leased access time" in order to air a half hour infomercial. The total lease cost is approximately \$22,680. This cost is market value, based upon a rate sheet available to all consumers. The contract is for one year.

Applicable Law

Committee members are public employees subject to the County's ethics law.² Section 19A-11(a)(2)(E) of the ethics law states:

Unless permitted by a waiver, a public employee must not participate in any matter if the public employee knows or reasonably should know that any party to that matter is any business or individual that is a party to an existing contract with the public employee or a relative, if the contract could reasonably result in a conflict between private interests and official duties.

Analysis

Based upon the employee's representations, we conclude that there is no conflict

¹ § 8A-31(a). Unless indicated otherwise, all references are to the Montgomery County Code (1994), as amended.

² §§ 8A-31(e) and 19A-4(m)(3).

because the employee paid market value for the airtime based upon a rate sheet available to all customers. The employee is participating in a matter (the Committee) and the employee is seeking a contract with a party to that matter (Comcast). But we do not believe that the contract could reasonably result in a conflict between the employee's private interests and official duties because the employee paid market value for the airtime based upon a rate sheet available to all customers.

Conclusion

There is no conflict.

FOR THE COMMISSION:

[signed]

Elizabeth Kellar, Chair